

Order

Michigan Supreme Court
Lansing, Michigan

June 1, 2007

Clifford W. Taylor,
Chief Justice

133128

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

DAVID CARL BARRETT,
Defendant-Appellee.

SC: 133128
COA: 261382
Livingston CC: 04-014530-AR
53rd DC: 04-5593-FY

On order of the Court, the application for leave to appeal the December 19, 2006 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other preemptory action. MCR 7.302(G)(1). At oral argument the parties shall address whether this Court should overrule *People v Burton*, 433 Mich 268 (1989), which requires independent proof of a startling event before an out-of-court statement may be admitted as an excited utterance under MRE 803(2). The parties may file supplemental briefs within 42 days of the date of this order, but they should not submit mere restatements of their application papers.

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the questions presented in this case may move the court for permission to file briefs amicus curiae.

CAVANAGH, J., would deny leave to appeal.



d0529

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 1, 2007

Corbin R. Davis

Clerk